

Message Text

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PAGE 01 HONG K 08409 250942Z

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ACTION L-03

INFO OCT-01 EA-07 ISO-00 SCA-01 JUSE-00 DRC-01 RSC-01

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R 250803Z JUL 74

FM AMCONSUL HONG KONG

TO SECSTATE WASHDC 1654

INFO DEA WASHDC

UNCLAS HONG KONG 8409

DEA FOR EOI/CUSACK

E.O. 11652: N/A

TAGS: CGEN, HK

SUBJECT: EXTRADITION (KWEI SANG YUIN)

REF: HONG KONG 8372

1. GOVERNOR HAS GRANTED YUIN 14 DAY EXTENSION DISCUSSED IN REFTEL FROM JULY 24.

2. YUIN'S BASIC ARGUMENT ON WHICH HE ATTEMPTING APPEAL TO ULTIMATE LEVEL IS THAT THE USG HAVING SOUGHT EXTRADITION IN 1972, THE TWO MONTH LIMITATION PROVIDED BY THE TREATY DURING WHICH EVIDENCE TO SUPPORT EXTRADITION MUST BE PRODUCED HAS EXPIRED. HE ARGUES THAT SINCE THE APPLICATION FOR EXTRADITION WAS DISMISSED IN 1972 ON GROUNDS THERE WAS NO CASE TO ANSWER, EXTRADITION COULD HAVE BEEN SOUGHT AGAIN ON THE SAME BASIS ONLY IF THE ADDITIONAL EVIDENCE NEEDED TO PERFECT THE CASE HAD BEEN PRESENTED WITHIN THE PERIOD OF THE ORIGINAL TWO MONTHS. HE ARGUES THAT, OTHERWISE, THE REQUESTING STATE COULD KEEP A PERSON ARRESTED AND IN CUSTODY INDEFINITELY BY MERELY FILING NEW REQUESTS FOR EXTRADITION AND ADDING NEW BITS OF EVIDENCE. ON APPLICATION FOR HABEAS CORPUS, SUPREME COURT REJECTED THAT ARGUMENT AND AGREED WITH CROWN SOLICITOR THAT TREATY TERMS DO NOT PRECLUDE FILING NEW APPLICATION FOR EXTRADITION AND THE TWO MONTHS BEGINS ANEW EACH TIME.

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3. CROWN SOLICITOR UNCERTAIN HOW LONG DECISION BY PRIVY COUNCIL
WHETHER TO GRANT LEAVE TO APPEAL WILL TAKE. HONG KONG ATTORNEY
GENERAL WILL, HOWEVER, EXPEDITE MATTER TO EXTENT POSSIBLE. A
FURTHER REPORT WILL BE SUBMITTED WHEN POSSIBLE ESTIMATE
TIMING FOR INITIAL PRIVY COUNCIL DECISION.
CROSS

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Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
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Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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